MELATI HJ. SALLEH

v.

REGISTRAR-GENERAL OF BIRTHS & DEATHS & ANOR.

HIGH COURT, SINGAPORE
CHAN SEK KEONG J
[ORIGINATING SUMMONS NO. 62 OF 1989]
5 MAY 1989

FAMILY LAW: *Children - Application to inspect Adoption of Children Registrar - Request under s. 11 of the Act - Legislative history - Law before and after 15 May 1972 - Denial by Registrar - Whether Court can order disclosure - Section 12(6) - Legitimate purpose - Duty of Registrar General.*

The plaintiff wrote to the Registrar-General of Births and Deaths requesting permission to inspect the Adoption of Children Register. The Registrar-General denied her request under s. 12(6) of the Adoption of Children Act, this culminated in the present application by the plaintiff for an order to carry out such inspection. In coming to its decision, the Court traced the legislative history of the Act.

Held:

[1] If the object of the new provisions of the Adoption Act 1972 is to protect the interest of all parties, that object failed once an adopted child knows he or she is an adopted child.

[2] In the absence of a demonstrable public interest against disclosure, it is only morally right that an adopted child should be granted the right to know who is or her natural parents are.

[3] There is no evidence to suggest that the plaintiffs motive is anything but *bona fide*.

[4] The entitlement of an applicant to extract necessary information from the Register is to be determined by the scope of the relevant provisions of the Adoption Act.

[5] The Registrar's rejection of the application was not proper since s. 12(6) of the Act does not prescribe the purpose for which the inspection is required, any legitimate purpose must suffice.

[6] Here the plaintiff requires inspection for the purpose of finding out who her natural parents are. This is a legitimate purpose. The Court held that the Registrar-General has misconstrued his duty under s. 12(6).

[Order accordingly.]

Legislation referred to:
Adoption Act 9 of 1972 [Sing], ss. 5(3), (4), (5), (6), (7), (8), (10), (11), 11,(6),(8), 12(6)

For the plaintiff - Wong Soo Chih
For the defendants - Sim Mei Ling (State Counsel)

JUDGMENT

Chan Sek Keong J:

This is an application by the plaintiff, an architect, for an order that she or her solicitors be permitted to inspect the original or former entry in the Adoption of Children Register or to take a copy thereof relating to the original birth certificate and legal adoption of the plaintiff.

The plaintiff's solicitor's wrote to the Registrar-General on 14 July 1988 that the plaintiff, who believes her ethnic origin to be Chinese, would like to find out who her natural parents were and requested that they be allowed to inspect the Adoption of Children Register maintained under s. 11 of the Adoption Act before it was amended by Act 9 of 1972 (hereinafter called "the defunct Register") and make copies of the entries therein relating to their client's adoption. The Registrar-General replied on 10 August 1988 as follows:

> I refer to your letter dated 14 July 1988.
>
> 2. Under s. 12(6) of the Adoption of Children Act (Chap 4), no person shall be allowed to take a copy of the original entry as to birth of a child who has been subsequently adopted.
>
> 3. As your client was legally adopted, we regret that we are unable to accede to her request for her original birth certificate.

In making this application, the plaintiff has filed an affidavit stating that she intended to make her will and that she wished to know the identities of her natural parents so that she could provide for them in her will. She has also stated that she did not wish to obtain the information from the adopting parents, as she did not wish to hurt them in their old age.

To determine whether the plaintiff has the right to have access to the defunct Register in order to know who her natural parents are, it is necessary to trace the legislative history of the Adoption Act. Until 15 May 1972, when Act 9 of 1972 came into force, the adopted Children Register was maintained by the Registrar-General of Births and Deaths pursuant to and in accordance with s. 11 of the Adoption Act (Cap. 43, 1970 Edn.). The procedure thereunder was that on receipt of an adoption order made by the Court, the prescribed particulars i.e. date, country and birth of the adopted child, his name and surname, the sex of the child, the names and surnames of the adopting parents and particulars of the Court order would be entered in the Adopted Children Register. By s. 11(6), the Registrar-General was required to mark an entry in the register of births with the word "Adopted". Section 11(8) also provided that every person should be entitled to have a certified copy of any entry in the Adopted Children Register in all respects upon and subject to the same terms, conditions and regulations as to payment of fees and otherwise as are applicable under the Registration of Births and Deaths Act, in respect of the supply of certified copies of entries in the registers of births and deaths.

The law before 15 May 1972 therefore that every person had a right to obtain a certified copy of any entry in the defunct Register.

However, s. 5 of Act 9 of 1972 (now s. 12 of Cap. 4 1985 Edn.) changed the procedure for the registration of adopted children in the following manner.

> (a) *[By subsection (3)]*
> Upon receipt of the form referred to in subsection (1), the Registrar-General shall if the birth of the adopted child has been registered in Singapore cause the entry in the relevant register of births to be marked with the word "Adopted". Particulars as to the birth of the child shall then be registered separately substituting the name conferred by the adoption for the name of the child prior to adoption, and recording the name, address and description of each adopting parent in substitution for the particulars as to the natural or last adopting parents.

(b) *[By subsection (4)]*
In any case where the birth of the adopted child has not been registered in Singapore, the Registrar-General, upon being satisfied as to the correctness of the information supplied to him as to the date and place of birth of the child, shall register particulars as to the birth of the child in accordance with the procedure in subsection (3).

(c) *[By subsection (5)]*
Where a copy of the entry as to birth of any child to which this section relates is required for any purpose, the Registrar-General, subject to any regulations as to payment of fees as are prescribed, shall supply a copy of the last entry made pursuant to subsection (3) omitting in the copy the word "Adopted" that appears in the original former entry.

(d) *[By subsection (6)]*
No person shall be permitted to inspect any such original or former entry, or to take a copy of such original or former entry unless that person has certified, and the Registrar-General is satisfied, that the particulars recorded in the original or former entry are material for the purpose for which the inspection is required.

(e) *[By subsection (7)]*
Where on 15 May 1972 an adoption order has already been made in respect of an infant, the Registrar-General shall upon application being made by either of the adopting parents, or in the event of both adopting parents being dead, by the adopted child register particulars as to the birth of the child in accordance with subsection (3) and upon registration, subsection (5) shall apply to any copy of an entry as to the birth of the adopted child.

(f) *[By subsection (8)]*
The copy of the entry as to the birth of the child supplied by the Registrar-General under subsection (5) shall have the same effect in law as a copy of any entry as to the birth of a child who is not adopted.

(g) *[By subsection (10)]*
The Adopted Children Register maintained under s. 11 repealed by the Adoption of Children (Amendment) Act 1972 shall cease to be maintained and no extracts therefrom shall be issued except by an order of Court.

(h) *[By subsection (11)]*
The Registrar-General shall keep such other registers and books, and make such entries therein as may be necessary to record and make traceable the connection between any entry in the Adopted Children Register previously maintained under s. 11 repealed by the Adoption of Children (Amendment) Act 1972 and an entry in the registers of births made pursuant to this section, but the registers and books kept under this subsection shall not be, nor shall any index thereof be, open to public inspection or search nor except under an order of Court shall the Registrar furnish any person with any information contained in or with any copy or extract from any such registers or books.

The substantial change brought about by these amendments was that after 15 May 1972, adopting parents would only be issued with birth certificates of adopted children which do not disclose their adoption. The effect is that no adopted child who is adopted by parents of the same ethnic group would discover the fact of his adoption by merely looking at his birth certificate. Whatever may be the policy considerations behind the amendments, the fact remains that in a multi-racial society like Singapore, the amendments will have limited effect

because they can never conceal an inter-radial adoption. This case is a demonstration of that fact. The plaintiff believes her ethnic origin is Chinese although her legal parents are Malaya.

Now that the plaintiff has discovered her adopted status, she desires to find out who her natural parents are. The 1st defendant denied her that "right" solely on the ground that she was an adopted child. Before me, State Counsel has argued strenously that the plaintiff be barred form inspecting the defunct Register. She has advanced three reasons to justify the 1st defendant's decision, but at the same time, has conceded that the Court has the power to order disclosure by virtue of s. 12(10) and (11) of the Adoption Act. The question is whether the Court should make the order. It is submitted firstly, that the object of the new provisions is to protect the interest of all parties to the adoption, including the child; that an adoption order severs forever all rights and obligations between the natural parents and the child therefore the Court should not in principle grant the order. Secondly, it is submitted that the grant of an order would set a dangerous precedent, as it may be abused leading to undesirable social consequences. Thirdly, it is submitted that the application may not be *bona fide* on the grounds (a) it is made at such a late stage (the plaintiff is aged 34) and (b) that the natural parents are not likely to survive the plaintiff.

In my view, State Counsel has overstated a case which has no substance in it. Firstly, if the object of the new provisions is to protect the interest of all parties (presumably, their feelings or their conscience, but I would have thought it is primarily to protect the adopted child) connected with an adoption, that object has failed once an adopted child knows he or she is an adopted child. Secondly, I am unable to comprehend why the legal effect of an adoption order should by itself determine whether or not an adopted child who knows he or she is an adopted child should be denied the opportunity or right to know who his or her natural parents are. In the absence of a demonstrable public interest against disclosure, I would have thought that it is only morally right that an adopted child in such a position should be granted the right to know who his or her natural parents are. Indeed there may even be countervailing public interest in favour of full disclosure in at least one specific circumstances: that of preventing the adopted child from contracting a marriage within any of the prohibited degrees of relationship prescribed by s. 10 of the Women's Charter. As for the third submission, there is absolutely no evidence to suggest the plaintiff's motive is anything but *bona fide*. In any case, if the plaintiff has a right to be informed, it does not matter what her motive is in seeking the information so long as it is not for an illegitimate purpose.

In my view, whether or not the applicant is entitled by law to a certified copy of an extract from the defunct Register in order to obtain the identities of her natural parents, is determined by the scope of the relevant provisions of the Adoption Act and in particular s. 12 thereof and not to what State Counsel considers to be the policy reasons behind the new provisions. Section 12(6) provides that no person shall be permitted to inspect any such original or former entry or to take a copy thereof unless that person has certified and the Register-General is satisfied that the particulars recorded in the original or former entry are material for the purpose for which the inspection is required. Neither the materiality nor the purpose is defined in s. 12(6). The Registrar-General rejected the application of the plaintiff solely on the ground that she was an adopted child. In my view, that was clearly not a proper ground for refusing the request. Under s. 12(6), the Registrar-General needs only to be satisfied that the particulars recorded in the original entry are material for the purpose for which the inspection is required. Since s. 12(6) does not prescribe the purpose for which the inspection is required, any legitimate purpose must suffice. Here the plaintiff requires inspection for the purpose of finding

out who her natural parents are. That is a legitimate purpose. Therefore, I cannot see how the Registrar-General was in a position to say that the original entry was not material for the purpose for which the inspection was required.

In my view, the Registrar-General has misconstrued his duty under s. 12(6) and has reached the wrong decision. Accordingly, I will make an order in terms of the application. However, to enable the defendants to apply for a stay of this order should they decide to appeal against my decision, I direct that this order should lie in the Registry for a period of 7 days from today.

Also found at [1990] 1 CLJ 392